

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 29th day of March, two thousand eleven.

PRESENT:

GUIDO CALABRESI,
JOSÉ A. CABRANES,
RICHARD C. WESLEY,
Circuit Judges.

VALDETE DOKAJ,
Petitioner,

v.

10-2936-ag
NAC

ERIC H. HOLDER, JR., UNITED STATES
ATTORNEY GENERAL,
Respondent.

FOR PETITIONER: Parker Waggaman, Woodside, New York.

FOR RESPONDENT: Tony West, Assistant Attorney General; Jennifer L. Lightbody, Senior Litigation Counsel; Stefanie A. Svoren, Trial Attorney, Office of Immigration Litigation, Civil Division, United States Department of Justice, Washington, D.C.

1 UPON DUE CONSIDERATION of this petition for review of a
2 Board of Immigration Appeals ("BIA") decision, it is hereby
3 ORDERED, ADJUDGED, AND DECREED, that the petition for review
4 is DENIED.

5 Valdete Dokaj, a native and citizen of Albania, seeks
6 review of a June 24, 2010, order of the BIA, affirming the
7 October 1, 2008, decision of Immigration Judge ("IJ") Javier
8 Balasquide, pretermittting her asylum application and denying
9 her application for withholding of removal and relief under
10 the Convention Against Torture ("CAT"). *In re Valdete Dokaj*
11 No. A094 044 753 (B.I.A. June 24, 2010), *aff'g* No. A094 044
12 753 (Immig. Ct. N.Y. City Oct. 1, 2008). We assume the
13 parties' familiarity with the underlying facts and
14 procedural history in this case.

15 Under the circumstances of this case, we have
16 considered both the IJ's and the BIA's opinions "for the
17 sake of completeness." *Zaman v. Mukasey*, 514 F.3d 233, 237
18 (2d Cir. 2008) The applicable standards of review are well-
19 established. See 8 U.S.C. § 1252(b)(4)(B); *Xiu Xia Lin v.*
20 *Mukasey*, 534 F.3d 162, 167 (2d Cir. 2008).

21 Under the REAL ID Act, which applies to Dokaj's
22 application for relief, "an IJ may rely on any inconsistency
23 or omission in making an adverse credibility determination

1 as long as the 'totality of the circumstances' establishes
2 that an asylum applicant is not credible" (emphasis in
3 original) (quoting 8 U.S.C. Section 1158 (b) (1) (B) (iii)).
4 *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 167 (2d Cir. 2008);
5 see *Matter of J-Y-C-*, 24 I. & N. Dec. 260, 265 (B.I.A. 2007)
6 (finding that "the REAL ID Act no longer requires the trier
7 of fact to find a nexus between inconsistencies and the
8 'heart of the claim'").

9 Substantial evidence supports the IJ's adverse
10 credibility determination. See *Xiu Xia Lin*, 534 F.3d at
11 167. The IJ found Dokaj not credible based on her admission
12 that she had lied at her asylum interview, claiming that, in
13 2005, she had been dragged into a car, threatened, driven
14 for several miles, and then thrown back out of the vehicle.
15 See *Siewe v. Gonzales*, 480 F.3d 160, 170 (2d Cir. 2006) ("a
16 single false document or a single instance of false
17 testimony may (if attributable to the petitioner) infect the
18 balance of the alien's unauthenticated or uncorroborated
19 evidence"); see also *Diallo v. Gonzales*, 445 F.3d 624, 631-
20 33 (2d Cir. 2006) (reasoning that asylum interviews "take
21 place after the alien has arrived in the United States, has
22 taken the time to submit a formal asylum application, and

1 has had the opportunity to gather his or her thoughts, to
2 prepare for the interview, and to obtain counsel," and are
3 therefore not entitled to the "*special* scrutiny" afforded to
4 airport and credible fear interviews) (emphasis in
5 original). We are not compelled to find error in the IJ's
6 refusal to credit the explanations Dokaj offered because she
7 first denied that she had lied, and did not admit her
8 fabrication until after the Asylum Officer who had
9 interviewed her had testified. *See Majidi v. Gonzales*, 430
10 F.3d 77, 80-81 (2d Cir. 2005) (holding that the agency need
11 not credit an applicant's explanations for inconsistent
12 testimony unless those explanations would compel a
13 reasonable fact-finder to do so); *Yun-Zui Guan v. Gonzales*,
14 432 F.3d 391, 396, 397 n.6, 399 n.8 (2d Cir. 2005) (stating
15 that an applicant's "mere recitation that he was nervous or
16 felt pressured during an airport interview will not
17 automatically prevent" the agency from relying on the
18 interview for an adverse credibility determination as long
19 as the agency acknowledges and evaluates the explanation).
20 Accordingly, because the adverse credibility determination
21 infected the basis of Dokaj's requests for withholding of
22 removal and CAT relief, the agency was permitted to rely on

1 that finding to deny both forms of relief. See 8 U.S.C.
2 § 1158(b)(1)(B)(iii); *Paul v. Gonzales*, 444 F.3d 148, 156
3 (2d Cir. 2006).

4 For the foregoing reasons, the petition for review is
5 DENIED. As we have completed our review, any stay of
6 removal that the Court previously granted in this petition
7 is VACATED, and any pending motion for a stay of removal in
8 this petition is DISMISSED as moot. Any pending request for
9 oral argument in this petition is DENIED in accordance with
10 Federal Rule of Appellate Procedure 34(a)(2), and Second
11 Circuit Local Rule 34.1(b).

12 FOR THE COURT:
13 Catherine O'Hagan Wolfe, Clerk